

Southwest Harbor Planning Board
September 16, 2010 - 6:00 p.m.
Southwest Harbor Town Office

MINUTES OF MEETING

I. Roll Call/Call to Order: The meeting was called to order at 6:05 p.m.
Present: Eric Davis, Mike Magnani, Gordon Wissinger, Lee Worcester,
Chris Rawls and Code Officer Donald Lagrange

Visitors: Shirley Soukup, Shawn Robinette, Brian White, Dean
Henry, Alice L. Downs

II. Visitors to be heard not on the Agenda - none

III. Approval of outstanding minutes of meetings – none

Chairman asked the Board if they would agree to switch the order of
applicants to be heard: Soukup, Dean and then Robinette – Board agreed.

IV. Application: Henry & Alice Dean, Map 4, Lot 66, 14 Winding Lane,
Zone C. Purpose: construct frost wall under existing structure. CEO
correction the names on the application are Dean Henry and Alice L.
Downs. Worcester said the primary area of consideration when reviewing
an application that addresses foundations and frost walls, is whether the
applicant would use their best efforts to move a building to an area that
would put the property more in compliance, and the CEO has recommended
that because of the drainage and ledge as well as existing vegetation the
house remain in its current position. Wissinger asked about existing water
and why it is currently listed as public and in future listed as private. The
applicants said they are going to drill a well. Wissinger did not see the
proposed well on the drawing and the CEO said the well driller has not made
a determination where to place the well at this time. CEO said parking
existed prior to the ordinance, and there is ample parking on the property.
Rawls asked CEO if there is knowledge of existing wells in the area – CEO
said there area no existing wells in the immediate area. Henry said there is
one well on the shore lot, but not near his lot. It was Moved Wissinger that
the application is complete with the following changes : Name changed to

Dean Henry and Alice L. Downes and the parking be labeled that there are 2 spots existing. Seconded Rawls. Vote: 5 - 0

Compliance: Clearing and Vegetation: It was Moved Worcester that performance standards a, c, e, g, h, i as listed in CEO memo to the Board should be considered not applicable. Seconded Rawls. Vote: 5 - 0

Applicable performance Standards:

B: clearing and vegetation: CEO said the applicant is trying to minimize the clearing, and is not in the Shoreland zone, but they will review the vegetation and CEO asked the Board to accept the statement that minimal clearing will be done, based on the building staying in the same location. Wissinger reviewed the ordinance as it relates to foundations. Page 8 of the ordinance, Section III non –conformance III.c.1.c. From a question by Rawls, CEO said the height of the foundation will have to be looked at, but the ordinance allows the house to be raised to not more than 3’ above it’s current height. CEO said if the house were moved it would affect drainage of the abutter on the southern side – this will minimize the effects on the environment – plus the outcropping of ledge currently under a portion of the house would require blasting. Wissinger said based on the information received the Board is within its jurisdiction to allow the building to stay in its current spot.

Erosion and sedimentation control: Installation of a silt fence – CEO said it will be sufficient to control sedimentation flow.

Fill and Excavation: CEO said if it is needed, it is applicable to a construction activity and the ordinance allows that. Applicant said they will excavate only to dry it up and will put in a French drain under the house.

Noise: CEO: if blasting occurs abutters must be notified in sufficient time, at least 24 hours prior to blasting.

Storm water run off standards: CEO said Mr. Henry has stated that there will be no changes in storm water runoff if the house stays in its current location. Wissinger pointed out that it will go around the house, but CEO said it is still going in the same area down hill. Effects of Blasting will be monitored by Federal Law – which will prevail if there is blasting. Wissinger said this item could be considered non applicable. The Board agreed that item S is n/a.

It was Moved Wissinger that the application is in compliance with the applicable performance standards: B, D, F, K provided notification is given within 24 hours of blasting, and that item Q, and item S iare non applicable. Seconded, Magnani. Vote: 5 – 0

It was Moved Wissinger that the application be approved subject to: performance standard statement, that the completed foundation does not extend beyond the structure, does not cause it to be elevated more than 3’, and the Planning Board determined that the house will remain in the same location in a non conforming location based on the review of the application. Seconded, Davis. Vote: 5 – 0

Application: Continuation: Shawn Robinette & Brian White, 204 Main Street, Map 7 Lot 22, Zone A, Purpose: create 22 interior and 10 exterior-seat coffee shop; add a 10 x 20 open air deck, and convert 2nd floor to a staff residence. CEO said the description has been changed to a 26 seat interior and 10 exterior. Deck and will be 12 x 20. Review authority was addressed by Wissinger – saying it is a non conforming structure with change of use. He asked the CEO if he could approve the application with the exception of the change of use. Agreed that was the case. It is non-conforming because of the set back from the centerline of the road – and while this predates the ordinance, it is still non conforming. Structure information should change the deck dimensions and square footage of that. It is not being considered a commercial structure –but will be considered a change of use. Square footage needs to change from 200 to 240 and the deck from 10 x 20 to 12 x 20 on the application. Application has changed from 22 to 26 seat. It was Moved Wissinger and seconded Magnani that the application is complete with the stated changes. 5 – 0

Worcester asked about parking: CEO said that is part of the review to be sure it meets the ordinance. DOT: the applicants met with them Monday, and DOT said there will be no need to cut the curb. Wissinger said the ordinance requires at least a 10’ wide drive and the applicant said the drive will be 12’. Applicant has an easement through the shops. CEO said handicapped accessibility is not required because there is no major renovation.

It was Moved that Performance Standards b, d, f, g, h, I, j, k, m, o, p, r, s, t, and u are not applicable. Seconded, Davis. Discussion: Rawls asked if the fencing will obscure the view – no. It will be 8 – 9 feet back from the property line.

Break at 7pm. Resume at 7:05 p.m.

CEO told Rawls that DOT looks at these commercial expansions and it has to meet their conditions – this application should be contingent upon the DOT permit.

The Motion on the table prior to the break did not list item c” Driveway”.
Vote: 5 – 0 in favor.

Driveway and driveway standards: Wissinger said this is already a non conforming structure and it appears the deck will be in conformance and all the parking is within the setback, as represented on the application. Board will review.

Applicable performance standards:

Landscape and buffering: stockade fence (roughly in the area of the old stockade fence). Wissinger said CEO has proposed the impact level to be low. The Board agreed that they consider the impact low. CEO suggested the Board approve the application, not as seasonal but as year-round. The Board agreed that this application is for a year-round operation and the fence is sufficient buffering for low impact. Wissinger said the fence must be maintained in its current position.

Driveway and Driveway opening. The entrance is 12’ and the set back is 6’ from the property line in the application – no curb cut needed. Based on this information Wissinger and the Board said this is ok

Erosion and sedimentation control – Worcester asked if there was a silt fence depicted on the drawing – CEO and applicant said it is, because of a wetland out in the back. The asphalt will remain and spots 8, 9, 10 and 11 will be added for parking as gravel, not asphalt. Grade is not changing, and Magnani said with the gravel for parking it should not affect the drainage or cause any erosion. Include the silt fence in the final motion.

Exterior lighting – all lights will be shielded

Fire protection – noted that confirmation must be received from the Fire Marshall because of the split use. The Fire Marshall will determine whether or not there is a need for a state construction permit, and he will rate the division between floors. The Board agreed that their approval should be

conditional on approval and compliance with the rulings of the State Fire Marshall. CEO said we do not know whether that person will require a fire rated ceiling between the two floors, and that should be a condition. This Board will require necessary documentation from the State Fire Marshall as to whether or not he will require a State construction permit by the applicant.

Parking and loading standards: Wissinger said they need 9 plus 2 which is 11 – and the plan has 11 spaces. No loading dock is required.

Ok on 30 degree parking – setback is 6’ on South and West property line; permit will indicate that they have adequate turning to come into the parking lot – and the fence should be in compliance with the ordinance and DOT so as not to cause view obstruction.

Sewage disposal: Worcester asked if this will need a grease trap. Wissinger said if a grease trap is needed, it will have to be applied for with the Sewer Department. Applicants will not be frying or providing grease in the disposal system. Chairman said that applicant will need to comply with the Sewer Ordinance, as part of the condition of approval.

Storm water run off standards: Wissinger asked if the temporary materials for erosion control needed to be made permanent. Spaces 1 & 2 will be gravel. At the end of parking space 2 it is asphalt. Applicant shall provide material in front of spaces 1 & 2 to eliminate any run off. 6’ strip between property lines must remain vegetated. In order to protect the client, the Board suggested putting up stops to prevent people from pulling out into the Southwest Shoppes parking area by the Liquor Locker.

It was Moved Wissinger find performance standards a, c, d, e, g, l, n and q are adequate subject to the following; a buffer be maintained as shown on the application at 6’ in height and not closer than 8’ from the road; there be a silt fence in place during construction; lights are all shielded; that the State Fire Marshall’s office recommendations for split occupancy be adhered to; that they are in compliance with any conditions of the Southwest Harbor Sewer Dept. and it’s ordinance and that the vegetated 6’ area around parking space # 1 be maintained. The Board also finds that the impact is low, and the Board understands that this is a year-round application.
Seconded Worcester – Vote: 5 – 0

Application: Continuation: William & Shirley Soukup, 9 Long Pond Road, Map 13, Lot 15-1, Zone C: Purpose: Fill in excess of 500 cu.yds. Chair reviewed a memo from the CEO dated August 18, 2010. CEO said there is no time restriction between 500 cu. yards of fill being brought in – but the applicant was not aware that the person bringing in the fill, brought in more than 500 cu. yds. The Chairman referred to a letter from Steve Wilson discussing the things the applicant was going to do and asked the CEO if the applicant was in compliance with those stipulations. CEO said they were. Rawls asked what type of fill and Worcester said it was inert. CEO said there was a 500 and a 300 yard permit(s) issued and the CEO realized that there was an excess of fill existing when the applicant came in for an additional permit for fill. It was Moved Wissinger that the application is complete. Seconded, Magnani. Vote: 5 – 0.

The Board reviewed the compliance portion of the application. It was Moved Wissinger that all performance standards except D , F & Q are not applicable. Seconded, Davis. Vote: 5 – 0.

D: Erosion and sedimentation control: Wissinger reviewed comments from the CEO on this issue and the Board agreed with his comments.

F: Excavation: CEO in his memo verified that the site is properly graded and re-vegetated.

Q: Storm water runoff: CEO said this refers to where the water is going and does it affect an abutter. The drainage from there has not changed, and there are no wetlands to consider. CEO said they are in compliance with the storm water runoff as the flow will remain the same.

It was Moved Worcester and Seconded Magnani, that the applicant is in compliance with performance standards D, F and Q. Discussion: Wissinger noted that the Board is accepting the word of the CEO on these sections. Vote: 5 – 0.

V. Other Business: At Tuesday evenings Selectmen's meeting Worcester presented the LUO changes, and the Selectmen voted to extend the moratorium for 180 days. LUO changes will be on the ballot in November – Town cannot limit the individuals that distribute marijuana as it is in violation of State standards.

VI. Meeting Schedule: the next regular scheduled meeting will be October 7th – CEO has no applications as of this date. CEO asked the Board to

discuss term limits for the Planning Board at the next meeting, and perhaps change it from 5 years to 3 years. Worcester said he wouldn't recommend less than 3 years.

VII. Adjournment: It was Moved (Rawls) and Seconded (Davis) to adjourn the meeting at 7:50 p.m. 5 - 0